

EARTHRISE

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June 3, 2015

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Chang & Sons Enterprises, Inc.
415 River Road
Deerfield, MA 01373

Chang Farms
301 River Road
Whately, MA 01093

Tso-Cheng Chang, President
Sidney Chang, Vice President
P.O. Box 191, 415 River Road
South Deerfield, MA 01373

RECEIVED
JUN - 9 2015
OFFICE OF THE REGIONAL ADMINISTRATOR

**Re: NOTICE OF INTENT TO FILE SUIT FOR VIOLATIONS OF THE FEDERAL
CLEAN WATER ACT**

Dear Sirs:

This letter is written on behalf of the Connecticut River Watershed Council and its members (collectively "CRWC"). Pursuant to Section 505(a) of the Federal Water Pollution Control Act ("CWA"), 33 U.S.C. § 1365(a), CRWC intends to file a citizen suit in federal court against Chang & Sons Enterprises, Inc., Chang Farms, Tso-Cheng Chang (President), and Sidney Chang (Vice President), for violations of Sections 301(a) and 402(a) of the CWA. 33 U.S.C. §§ 1311(a) and 1342(a). This notice letter is a legally required pre-requisite to suit under Section 505 of the CWA. 33 U.S.C. § 1365(b)(1)(A).

Chang & Sons Enterprises, Inc., Chang Farms, Tso-Cheng Chang, and Sidney Chang (collectively "Chang Farms") own and/or operate a facility located at 301 River Road, Whately, MA 01093 ("Facility"). The Facility discharges pollutants directly into the Connecticut River. Discharges of industrial wastewater must comply with National Pollutant Discharge Elimination System ("NPDES") permits issued under Section 402 of the CWA, 33 U.S.C. § 1342. The discharge of any pollutant in violation of a NPDES permit is prohibited under Section 301(a) of the CWA. 33 U.S.C. § 1311(a). The Facility's discharges are subject to NPDES Permit No.

MA0040207 ("NPDES permit"), jointly issued by the United States Environmental Protection Agency ("EPA") and the Massachusetts Department of Environmental Protection ("DEP").¹

The Facility for many years has consistently violated effluent limitations and other conditions of its NPDES permit and these violations are ongoing. *Specifically, in the past five years alone, Chang Farms has violated and/or exceeded its express numeric permit limitations for four separate pollutants more than 330 times, based on the Facility's self-reported sampling data. Likewise, based on the Facility's own sampling, in the 60 months between May 2010 and April 2015, Chang Farms has violated numeric effluent limitations in its permit in 55 of those months, or 92% of the time.*

On one occasion, the pollutant levels in the Facility's discharges exceeded permit limits—limits that are set to protect the water quality of the Connecticut River—by 2,650%, and pollutant levels routinely exceed permit limits by orders of magnitude. Chang Farms also has failed the test designed to measure the toxicity of its discharge at least 30% of the time in the past five years. This self-reported sampling data represent conservative estimates of the Facility's actual number of violations since they do not account for all of the days, as described further below, that Chang Farms either did not sample or was otherwise violating its permit by failing to properly operate and maintain its wastewater treatment systems or failing to implement best management practices. The intent of this action is to address violations of the CWA that have occurred and which are continuing to occur from the Facility.

Section 505(a)(1)(B) also allows citizens to bring an action against a facility for violations of "an order issued by . . . a State" involving compliance with that facility's NPDES permit. 33 U.S.C. § 1365(a)(1)(B). On December 19, 2013, DEP issued an Administrative Consent Order with Penalty and Notice of Noncompliance to Chang & Son Enterprises, Inc. (hereinafter "2013 Consent Order," attached as **Exhibit 1**), for violations associated with Chang Farms' wastewater treatment facility that DEP discovered during an August 6, 2013 Compliance Evaluation Inspection. Tso-Cheng Chang signed the Consent Order on behalf of Chang & Sons Enterprises, Inc. The 2013 Consent Order required Chang Farms to perform several actions pursuant to a compliance schedule. *See* Exhibit 1, at 3-4, ¶ 10. Upon information and belief, Chang Farms has not complied with at least two requirements of the 2013 Consent Order, and DEP has not subjected Chang Farms to any stipulated civil penalties for such noncompliance, as the 2013 Consent Order explicitly contemplates. *See id.* at 5, ¶ 21.

¹ The Facility has been subject to two NPDES permits during the time period relevant to this Notice Letter, both of which bear the NPDES Permit No. MA00040207. From May 2010 through February 2014, the Facility was subject to a NPDES Permit that was issued on September 29, 2006 and became effective on December 1, 2006 (hereinafter "the 2006 Permit"). From March 2014 through the present, the Facility has been subject to a NPDES Permit that was issued on December 20, 2013 and became effective on March 1, 2014 (hereinafter "the 2014 Permit"). Unless specifically referred to by their years of becoming effective, both permits will be referred to hereinafter collectively as "NPDES Permit No. MA00040207" or "NPDES permit."

On the basis of the facts and law explained in this notice letter, CRWC intends to file suit in federal court against Chang Farms 60 days from the date of this notice. CRWC is a 501(c)(3) non-profit organization dedicated to the protection and restoration of the Connecticut River and its surrounding watershed. Numerous CRWC members live, work, and recreate in and around the Connecticut River in the vicinity of the Facility, including areas affected by violations of the CWA described in this notice letter. CRWC and its members are reasonably concerned that the pollutant discharges described herein contribute to degrading the water quality of the Connecticut River, present threats to public health, and diminish CRWC members' use and enjoyment of those waters and the aquatic-dependent wildlife and ecosystems they support.

CRWC is aware of the Facility's long history of significant compliance issues. Specifically, discharges from the Facility have consistently exceeded the express effluent limitations and other conditions contained in its NPDES permit in violation of Sections 301(a) and 402(a) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(a). Discharge monitoring reports and related documents that Chang Farms has filed with EPA and DEP plainly describe these violations and indicate that violations are ongoing.

The lawsuit will allege that the violations described below violate Sections 301(a) and 402(a) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(a), and their implementing regulations, which prohibit discharges in violation of a NPDES permit. The lawsuit also will allege ongoing violations of the 2013 Consent Order. CRWC alleges that Chang & Sons Enterprises, Inc. and Chang Farms—as well as Tso-Cheng Chang (President) and Sidney Chang (Vice-President), who are aware of and exercise control over the discharges from the Facility—are responsible and liable for the violations described here. Therefore, Msrs. Chang will be included as individual defendants along with Chang and Sons Enterprises, Inc. and Chang Farms, in this federal court enforcement action. In addition to violating the CWA, the lawsuit also will allege that Chang Farms' failure to comply with its NPDES permit also violates Massachusetts state law, including but not limited to the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, §§ 26-53).

Through this action, CRWC intends to secure appropriate relief for violations of the CWA that have occurred at the Facility during the five years previous to the date of this notice letter and for any similar violations that occur after the date of this notice letter. In particular, CRWC plans to seek injunctive and declaratory relief under Section 505(a) and (d) of the CWA, 33 U.S.C. §§ 1365(a) and (d), to prevent further violations and impairment of the Connecticut River. Additionally CRWC intends to seek civil penalties for each of the violations described below. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as adjusted by 40 C.F.R. § 19.4, provides for penalties of up to \$37,500 per day for each violation discussed below. In addition to seeking maximum civil penalties, CRWC also intends to seek attorney fees and costs as prevailing parties are authorized to do under the CWA, 33 U.S.C. § 1365(d), and such other relief as is permitted by law.

The information below comes from Discharge Monitoring Reports and other documents contained in EPA's files for the Facility. Chang Farms should consult these documents regarding

any question pertaining to the violations referenced in this notice. Information currently in Chang Farms' possession may reveal additional violations, including monitoring, reporting, and recordkeeping violations of the CWA.

I. Reported Violations of Effluent Limitations

Table 1, attached, lists all dates currently known to CRWC to a reasonable degree of certainty, from May 2010, through April 2015 (the most recent date for which CRWC has information), on which Chang Farms violated and/or exceeded the parameters in its NPDES permit. Each exceedance constitutes a violation of Chang Farms' NPDES permit, CWA Sections 301(a) and 402(a), and the Massachusetts Clean Waters Act. At a minimum, the lawsuit will involve violations on the days Chang Farms was required to sample as reflected in the Discharge Monitoring Reports. We also expect the lawsuit to include violations that occurred on days in between those required sampling events on which discharges also occurred from the Facility.

II. Violations of Monitoring and Reporting Requirements

Table 1 also lists all instances currently known to CRWC to a reasonable degree of certainty, from May 2010, through April 2015 (the most recent date for which CRWC has information), on which Chang Farms failed to comply with the monitoring and reporting requirements of its NPDES permit. At a minimum, the lawsuit will involve the monitoring and reporting violations contained herein, although we expect information and documents currently in Chang Farms' possession may reveal additional violations of this type.

III. Violation of the Requirement to Properly Operate and Maintain

Chang Farm's NPDES permit requires that Chang Farms properly operate and maintain all pollution treatment and control facilities and systems that are necessary to comply with the effluent limits in the Permit. The permit mandates Chang Farms "shall properly operate and maintain all treatment systems." 2014 NPDES Permit at I.A.9; *see also* Part II.B(1) ("The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans.").

The fact that the Facility continues to regularly exceed allowable effluent limits indicates that Chang Farms is not in compliance with this requirement of the permit. CRWC intends to file suit for each day that Chang Farms has failed and continues to fail to properly operate and maintain all pollution treatment and control facilities at the Facility, including each and every day during the time period starting five years prior to the date of this notice letter, through the date of this notice and through the duration of the suit.

IV. Violations of 2013 Consent Decree

The 2013 Consent Order required Chang Farms to perform several actions pursuant to a compliance schedule, including:

10.F. Within three (3) months of the effective date of this Order, Respondent shall develop a schedule for calibration of the magnetic flow meters on a regular basis. The interval between calibrations shall be based on recommendations of the manufacturer of the meter. A copy of the schedule shall be submitted to the Department.

10.G. Within three (3) months of the effective date of this Order, Respondent shall submit either verification to the Department that the magnetic flow meters were installed in accordance with manufacturer's recommendations to provide accurate flow readings or provide a schedule to make any necessary modifications to the flow meters.

See Exhibit 1, at 3. Based on the date the Consent Order issued (Dec. 19, 2013), both of these obligations came due on March 19, 2014. Upon information and belief, Chang Farms has not complied with these two requirements of the 2013 Consent Order, and DEP has not subjected Chang Farms to any stipulated civil penalties for such noncompliance, as the 2013 Consent Order explicitly contemplates. *See id.* at 5, ¶ 21.

At a minimum, the lawsuit will involve the violations of the two requirements of the 2013 Consent Order detailed above, although we expect information and documents currently in Chang Farms' possession may reveal additional violations of the 2013 Consent Order. CRWC intends to file suit for each day that Chang Farms has been in violation of its duties under the 2013 Consent Order.

V. Failure to Implement, Maintain and Update Best Management Practices (BMPs)

Chang Farm's NPDES permit requires that Chang Farms "implement, maintain, and update as necessary, a BMP Plan designed to reduce, or prevent the discharge of pollutants" to the Connecticut River. *See* NPDES Permit I.A(17). The Permit requires the Facility's BMP Plan to contain several components that are explicitly set forth. *Id.* at A(17)(a-o). The fact that the Facility continues to regularly exceed allowable effluent limits indicates that Chang Farms is not in compliance with this requirement of the permit. Further, we expect information and documents currently in Chang Farms' possession may reveal additional evidence of non-compliance with BMPs. CRWC intends to file suit for each day that Chang Farms has failed and continues to fail to properly operate and maintain all pollution treatment and control facilities at the Facility, including each and every day during the time period starting five years prior to the date of this notice letter, through the date of this notice and through the duration of the suit.

VI. Conclusion

Discharges from the Facility have consistently violated and continue to violate the CWA and present a direct threat to the Connecticut River. The violations identified in this notice letter

are based upon the best information currently available to CRWC. Due to the chronic and persistent nature of this Facility's violations, there is more than a reasonable likelihood of ongoing violations in the future, and CRWC expects that the litigation discovery process will result in the identification of additional violations. CRWC intends to sue for all violations, including those yet to be uncovered and those committed after the date of this notice.

All pollutant permit limits described herein are described in the Facility's NPDES permit. Data regarding violations primarily came from Discharge Monitoring Reports submitted for discharges from the Facility. If Chang Farms believes any information in this notice is inaccurate, we encourage you to bring this to our attention as soon as possible.

If, during the 60-day notice period, representatives of Chang Farms wish to discuss any aspect of this notice or explore options for resolving the issues described, please contact the undersigned. Moreover, the 60-day notice period would be the appropriate time for Chang Farms to inform CRWC of any steps it has already taken to remedy the violations discussed in this notice. Because CRWC does not presently intend to delay the filing of a complaint past the end of the 60-day period—even if settlement negotiations are in progress at that time—any interest in such discussions should be communicated at your earliest possible convenience.

Sincerely,



Kevin Cassidy
Earthrise Law Center
Attorney for Connecticut River Watershed Council

PERSONS GIVING NOTICE AND REPRESENTING ATTORNEYS

The full name, address, and telephone number of the party providing this notice is:

Connecticut River Watershed Council
15 Bank Row
Greenfield, MA 01301
Telephone: (413) 772-2020

The attorney representing Connecticut River Watershed Council in this matter is:

Kevin M. Cassidy
Earthrise Law Center
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COPIES, VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED, TO:

Hon. Gina McCarthy, Administrator
U.S. EPA
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20460

Curt Spalding, Regional Administrator
U.S. EPA Region 1
5 Post Office Square – Suite 100
Boston, MA 02109-3912

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
1 Winter Street
Boston, MA 02108

Table 1: Reported Effluent Violations

We have reviewed the DMRs submitted by the permittee, and discharges from the Facility have repeatedly and consistently exceeded allowable pollution permit limits. To the best of our knowledge, the following table summarizes all violations based on self-reported data in the Facility's DMRs² between May 2010 and April 2015:

Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
May 2010 ³	001-A	pH	Minimum	6.5	5.94	SU
May 2010	001-A	TSS	Mo. Av.	15.5	16.5	mg/L
May 2010	001-A	Fecal coliform	Mo. Av.	200	510	CFU/100 mL
May 2010	001-A	Fecal coliform	Daily Max.	400	2,000	CFU/100 mL
June 2010 ⁴	001-A	pH	Minimum	6.5	5.99	SU
June 2010	001-A	Fecal coliform	Daily Max.	400	480	CFU/100 mL
July 2010 ⁵	001-A	pH	Minimum	6.5	5.94	SU
July 2010	001-A	Fecal coliform	Mo. Av.	200	2,110	CFU/100 mL
July 2010 ⁶	001-A	Fecal coliform	Daily Max.	400	6,300	CFU/100 mL
Aug. 2010 ⁷	001-A	pH	Minimum	6.5	6.32	SU
Sept. 2010 ⁸	001-A	pH	Minimum	6.5	6.32	SU
Sept. 2010	001-A	BOD (quantity)	Mo. Av.	33.3	48.8	lb/d
Sept. 2010	001-A	BOD (quantity)	Daily Max.	62.3	91.9	lb/d
Oct. 2010 ⁹	001-A	pH	Minimum	6.5	6.39	SU
Oct. 2010	001-A	Fecal coliform	Mo. Av.	200	598	CFU/100 mL
Oct. 2010	001-A	Fecal coliform	Daily Max.	400	1,600	CFU/100
Dec. 2010	001-A	Flow	Mo. Av.	0.15	0.158	MGD

² As described above, we expect information and documents currently in Chang Farms' possession may reveal additional violations at the Facility, including monitoring, reporting, and recordkeeping violations of the CWA.

³ Chang Farms' May 2010 DMR reports a total of 10 violations of the pH parameter.

⁴ Chang Farms' June 2010 DMR reports a total of 29 violations of the pH parameter.

⁵ Chang Farms' July 2010 DMR reports a total of 13 violations of the pH parameter.

⁶ Chang Farms' July 2010 DMR reports a total of 3 exceedences of the fecal coliform parameter.

⁷ Chang Farms' August 2010 DMR reports a total of 28 violations of the pH parameter.

⁸ Chang Farms' September 2010 DMR reports a total of 28 violations of the pH parameter.

⁹ Chang Farms' October 2010 DMR reports a total of 11 violations of the pH parameter.

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Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
Dec. 2010 ¹⁰	001-A	pH	Minimum	6.5	6.41	SU
Jan. 2011	001-A	pH	Minimum	6.5	6.43	SU
Feb. 2011	001-A	BOD (quantity)	Mo. Av.	33.3	58.1	lb/d
Feb. 2011	001-A	BOD (quantity)	Daily Max.	62.3	78	lb/d
Feb. 2011	001-A	BOD (concen.)	Mo. Av.	26.6	42.5	mg/L
Feb. 2011	001-A	BOD (concen.)	Daily Max.	41.5	57	mg/L
Feb. 2011	001-A	TSS (quantity)	Mo. Av.	19.4	20.5	lb/d
Feb. 2011	001-A	Flow	Mo. Av.	0.15	0.164	MGD
Mar. 2011	001-A	BOD (quantity)	Mo. Av.	33.3	47.3	lb/d
Mar. 2011	001-A	BOD (concen.)	Mo. Av.	26.6	31.5	mg/L
Mar. 2011 ¹¹	001-A	pH	Minimum	6.5	6.15	SU
Mar. 2011	001-A	TSS (quantity)	Mo. Av.	19.4	25.5	lb/d
Mar. 2011	001-A	TSS (concen)	Mo. Av.	15.5	17	mg/L
Mar. 2011	001-A	Flow	Mo. Av.	0.15	0.18	MGD
April 2011 ¹²	001-A	pH	Minimum	6.5	6.08	SU
April 2011	001-A	Flow	Mo. Av.	0.15	0.157	MGD
May 2011	001-A	pH	Minimum	6.5	5.84	SU
May 2011	001-A	Flow	Mo. Av.	0.15	0.154	MGD
June 2011	001-A	BOD (quantity)	Mo. Av.	33.3	42	lb/d
June 2011	001-A	BOD (concen.)	Mo. Av.	26.6	34	mg/L
June 2011	001-A	pH	Minimum	6.5	6.3	SU
June 2011	001-T	WET (toxicity)	Survival %	Acute >50	40.61	% survival
July 2011	001-A	pH	Minimum	6.5	6.22	SU
Aug. 2011	001-A	Fecal coliform	Mo. Av.	200	436	CFU/100 mL
Aug. 2011	001-A	Fecal coliform	Daily Max.	400	2,000	CFU/100 mL
Sept. 2011	001-A	BOD (quantity)	Mo. Av.	33.3	69	lb/d
Sept. 2011	001-A	BOD (quantity)	Daily Max.	62.3	No value	lb/d
Sept. 2011	001-A	BOD (concen.)	Mo. Av.	26.6	44	mg/L
Sept. 2011	001-A	BOD (concen.)	Daily Max.	41.5	No value	mg/L
Sept. 2011	001-A	TSS (quantity)	Mo. Av.	19.4	20.4	lb/d
Sept. 2011	001-A	TSS (quantity)	Daily Max.	34.8	No value	lb/d
Sept. 2011	001-A	TSS (concen)	Mo. Av.	15.5	No value	mg/L

¹⁰ Chang Farms' December 2010 DMR reports a total of 5 violations of the pH parameter.¹¹ Chang Farms' March 2011 DMR reports a total of 17 violations of the pH parameter.¹² Chang Farms' April 2011 DMR reports a total of 23 violations of the pH parameter.

Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
Sept. 2011	001-A	Flow	Mo. Av.	0.15	0.188	MGD
Oct. 2011	001-A	Flow	Mo. Av.	0.15	0.172	MGD
Oct. 2011	001-A	BOD (quantity)	Mo. Av.	33.3	NODI-E ¹³	lb/d
Oct. 2011	001-A	BOD (quantity)	Daily Max.	62.3	NODI-E	lb/d
Oct. 2011	001-A	BOD (concen.)	Mo. Av.	26.6	NODI-E	mg/L
Oct. 2011	001-A	BOD (concen.)	Daily Max.	41.5	NODI-E	mg/L
Oct. 2011	001-A	TSS (quantity)	Mo. Av.	19.4	NODI-E	lb/d
Oct. 2011	001-A	TSS (quantity)	Daily Max.	34.8	NODI-E	lb/d
Oct. 2011	001-A	TSS (concen)	Mo. Av.	15.5	NODI-E	mg/L
Oct. 2011	001-A	TSS (concen)	Daily Max.	23.2	NODI-E	mg/L
Nov. 2011	001-A	BOD (quantity)	Mo. Av.	33.3	54.8 ¹⁴	lb/d
Nov. 2011	001-A	BOD (concen.)	Mo. Av.	26.6	38 ¹⁵	mg/L
Nov. 2011	001-A	TSS (quantity)	Mo. Av.	19.4	26 ¹⁶	lb/d
Nov. 2011	001-A	TSS (concen)	Mo. Av.	15.5	18 ¹⁷	mg/L
Nov. 2011	001-A	Flow	Mo. Av.	0.15	0.173	MGD
Sept- Nov. 2011	001-Q	Nitrate + Nitrate total; Phosphorus, total; Nitrogen, Kjeldahl, total	Required Monitoring MO. AVG. & Daily Max.		NODI-E ¹⁸	
Dec. 2011	001-A	Flow	Mo. Av.	0.15	0.182	MGD
Dec. 2011	001-A	BOD (quantity)	Mo. Av.	33.3	NODI-E ¹⁹	lb/d
Dec. 2011	001-A	BOD (quantity)	Daily Max.	62.3	NODI-E	lb/d

¹³ Chang Farms' October 2011 DMR reports sample results for BOD and TSS samples are coded NODI-E, which stands for analyses not conducted. There is no explanation for the failure to conduct the required analyses.

¹⁴ Chang Farms' November 2011 DMR reports the daily maximum sample value is exactly the same as the monthly average, which indicates only one sample was taken in November 2011 instead of the two required.

¹⁵ Chang Farms' November 2011 DMR reports the daily maximum sample value is exactly the same as the monthly average, which indicates only one sample was taken in November 2011 instead of the two required.

¹⁶ Chang Farms' November 2011 DMR reports the daily maximum sample value is exactly the same as the monthly average, which indicates only one sample was taken in November 2011 instead of the two required.

¹⁷ Chang Farms' November 2011 DMR reports the daily maximum sample value is exactly the same as the monthly average, which indicates only one sample was taken in November 2011 instead of the two required.

¹⁸ Chang Farms' September-November 2011 Quarterly DMR reports sample results for Nitrate, Phosphorus, and Nitrogen samples are coded NODI-E, which stands for analyses not conducted. There is no explanation for the failure to conduct the required analyses.

¹⁹ Chang Farms' December 2011 DMR reports sample results for BOD and TSS samples are coded NODI-E, which stands for analyses not conducted. There is no explanation for the failure to conduct the required analyses.

Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
Dec. 2011	001-A	BOD (concen.)	Mo. Av.	26.6	NODI-E	mg/L
Dec. 2011	001-A	BOD (concen.)	Daily Max.	41.5	NODI-E	mg/L
Dec. 2011	001-A	TSS (quantity)	Mo. Av.	19.4	NODI-E	lb/d
Dec. 2011	001-A	TSS (quantity)	Daily Max.	34.8	NODI-E	lb/d
Dec. 2011	001-A	TSS (concen)	Mo. Av.	15.5	NODI-E	mg/L
Dec. 2011	001-A	TSS (concen)	Daily Max.	23.2	NODI-E	mg/L
Jan. 2012	001-A	TSS (quantity)	Mo. Av.	19.4	31	lb/d
Jan. 2012	001-A	TSS (quantity)	Daily Max.	34.8	63.1	lb/d
Jan. 2012	001-A	TSS (concen)	Mo. Av.	15.5	21.5	mg/L
Jan. 2012	001-A	TSS (concen)	Daily Max.	23.2	43	mg/L
Jan. 2012	001-A	Flow	Mo. Av.	0.15	0.176	MGD
Feb. 2012	001-A	pH	Minimum	6.5	6.4	SU
Feb. 2012	001-A	Flow	Mo. Av.	0.15	0.198	MGD
Dec. 2011-Feb. 2012	001-Q	Nitrate + Nitrate total; Phosphorus, total; Nitrogen, Kjeldahl, total	Required Monitoring MO. AVG. & Daily Max.		NODI-E ²⁰	
Mar. 2012	001-A	BOD (quantity)	Mo. Av.	33.3	34.7	lb/d
Mar. 2012	001-A	TSS (quantity)	Mo. Av.	19.4	20.7	lb/d
Mar. 2012	001-A	Flow	Mo. Av.	0.15	0.198	MGD
April 2012	001-A	Flow	Mo. Av.	0.15	No Value	MGD
April 2012	001-A	Flow	Required Monitoring Daily Max.		No Value	MGD
April 2012	001-A	Fecal coliform	Mo. Av.	200	1,200	CFU/100 mL
April 2012	001-A	Fecal coliform	Daily Max.	400	1600	CFU/100
May 2012	001-A	Flow	Mo. Av.	0.15	0.173	MGD
May 2012	001-A	Fecal coliform	Mo. Av.	200	2,550	CFU/100 mL
May 2012	001-A	Fecal coliform	Daily Max.	400	11,000	CFU/100

²⁰ Chang Farms' December 2011-February 2012 Quarterly DMR reports sample results for Nitrate, Phosphorus, and Nitrogen samples are coded NODI-E, which stands for analyses not conducted. There is no explanation for the failure to conduct the required analyses.

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Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
June 2012	001-A	Flow	Mo. Av.	0.15	0.179	MGD
June 2012	001-T	WET (toxicity)	Survival %	Acute >50	43	% survival
July 2012	001-A	Flow	Mo. Av.	0.15	0.187	MGD
Aug. 2012	001-A	BOD (quantity)	Mo. Av.	33.3	53.2	lb/d
Aug. 2012	001-A	BOD (concen.)	Mo. Av.	26.6	30.5	mg/L
Aug. 2012	001-A	Flow	Mo. Av.	0.15	0.209	MGD
Sept. 2012	001-A	BOD (quantity)	Mo. Av.	33.3	36.4	lb/d
Sept. 2012	001-A	Flow	Mo. Av.	0.15	0.236	MGD
Oct. 2012	001-A	BOD (quantity)	Mo. Av.	33.3	54.6	lb/d
Oct. 2012	001-A	BOD (quantity)	Daily Max.	62.3	79.4	lb/d
Oct. 2012	001-A	BOD (concen.)	Mo. Av.	26.6	27.5	mg/L
Oct. 2012	001-A	TSS (quantity)	Mo. Av.	19.4	41.7	lb/d
Oct. 2012	001-A	TSS (quantity)	Daily Max.	34.8	59.5	lb/d
Oct. 2012	001-A	TSS (concen)	Mo. Av.	15.5	21	mg/L
Oct. 2012	001-A	TSS (concen)	Daily Max.	23.2	30	mg/L
Oct. 2012	001-A	Flow	Mo. Av.	0.15	0.238	MGD
Nov. 2012	001-A	BOD (quantity)	Mo. Av.	33.3	50.6	lb/d
Nov. 2012	001-A	Flow	Mo. Av.	0.15	No Value	MGD
Dec. 2012	001-A	TSS (quantity)	Mo. Av.	19.4	51.9	lb/d
Dec. 2012	001-A	TSS (quantity)	Daily Max.	34.8	103.7	lb/d
Dec. 2012	001-A	TSS (concen)	Mo. Av.	15.5	24	mg/L
Dec. 2012	001-A	TSS (concen)	Daily Max.	23.2	48	mg/L
Dec. 2012	001-A	Flow	Mo. Av.	0.15	0.259	MGD
Jan. 2013	001-A	BOD (quantity)	Mo. Av.	33.3	33.5	lb/d
Jan. 2013	001-A	Flow	Mo. Av.	0.15	0.259	MGD
Feb. 2013	001-A	BOD (quantity)	Mo. Av.	33.3	37.53	lb/d
Feb. 2013	001-A	Flow	Mo. Av.	0.15	0.25	MGD
Mar. 2013	001-A	BOD (quantity)	Mo. Av.	33.3	34.8	lb/d
Mar. 2013	001-A	Flow	Mo. Av.	0.15	0.25	MGD
April 2013	001-A	BOD (quantity)	Mo. Av.	33.3	72.1	lb/d
April 2013	001-A	BOD (quantity)	Daily Max.	62.3	123.1	lb/d
April 2013	001-A	BOD (concen.)	Mo. Av.	26.6	33.4	mg/L
April 2013	001-A	BOD (concen.)	Daily Max.	41.5	57	mg/L
April 2013	001-A	TSS (quantity)	Mo. Av.	19.4	21	lb/d
April 2013	001-A	Flow	Mo. Av.	0.15	0.259	MGD
April 2013	001-A	Fecal coliform	Daily Max.	400	470	CFU/100
May 2013	001-A	BOD (quantity)	Mo. Av.	33.3	39.5	lb/d
May 2013	001-A	TSS (quantity)	Mo. Av.	19.4	26	lb/d
May 2013	001-A	Flow	Mo. Av.	0.15	0.231	MGD

60-Day Notice Letter to Chang Farms

June 3, 2015

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Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
June 2013	001-A	BOD (quantity)	Mo. Av.	33.3	36	lb/d
June 2013	001-A	TSS (quantity)	Mo. Av.	19.4	57	lb/d
June 2013	001-A	TSS (quantity)	Daily Max.	34.8	65	lb/d
June 2013	001-A	TSS (concen)	Mo. Av.	15.5	31	mg/L
June 2013	001-A	TSS (concen)	Daily Max.	23.2	35	mg/L
June 2013	001-A	Flow	Mo. Av.	0.15	0.223	MGD
June 2013	001-A	WET (toxicity)	Survival %	Acute >50	35.4	% survival
July 2013	001-A	BOD (quantity)	Mo. Av.	33.3	52.8	lb/d
July 2013	001-A	BOD (concen.)	Mo. Av.	26.6	28	mg/L
July 2013	001-A	TSS (quantity)	Daily Max.	34.8	35.8	lb/d
July 2013	001-A	Flow	Mo. Av.	0.15	0.226	MGD
Aug. 2013	001-A	Flow	Mo. Av.	0.15	0.222	MGD
Sept. 2013	001-A	Flow	Mo. Av.	0.15	0.228	MGD
Oct. 2013	001-A	BOD (quantity)	Mo. Av.	33.3	55.4	lb/d
Oct. 2013	001-A	BOD (concen.)	Mo. Av.	26.6	27.5	mg/L
Oct. 2013	001-A	Flow	Mo. Av.	0.15	0.242	MGD
Nov. 2013	001-A	TSS (quantity)	Mo. Av.	19.4	20.2	lb/d
Nov. 2013	001-A	TSS (quantity)	Daily Max.	34.8	40.4	lb/d
Nov. 2013	001-A	Flow	Mo. Av.	0.15	0.242	MGD
Dec. 2013	001-A	BOD (quantity)	Mo. Av.	33.3	49.6	lb/d
Dec. 2013	001-A	BOD (quantity)	Daily Max.	62.3	67.5	lb/d
Dec. 2013	001-A	TSS (quantity)	Mo. Av.	19.4	30.8	lb/d
Dec. 2013	001-A	TSS (quantity)	Daily Max.	34.8	35.7	lb/d
Dec. 2013	001-A	Flow	Mo. Av.	0.15	0.238	MGD
Jan. 2014	001-A	BOD (quantity)	Mo. Av.	33.3	53.5	lb/d
Jan. 2014	001-A	BOD (quantity)	Daily Max.	62.3	65.1	lb/d
Jan. 2014	001-A	BOD (concen.)	Mo. Av.	26.6	28.8	mg/L
Jan. 2014	001-A	TSS (concen)	Daily Max.	23.2	No Value	mg/L
Jan. 2014	001-A	Flow	Mo. Av.	0.15	0.223	MGD
Feb. 2014	001-A	BOD (quantity)	Mo. Av.	33.3	39.6	lb/d
Feb. 2014	001-A	Flow	Mo. Av.	0.15	0.202	MGD
Mar. 2014 ²¹	001-A	BOD (concen.)	Mo. Av.	26.6	28.75	mg/L
June 2014	001-A	BOD (concen.)	Mo. Av.	26.6	29.3	mg/L
July 2014	001-A	pH	Maximum	8.3	8.48	SU
Aug. 2014	001-A	BOD (concen.)	Mo. Av.	26.6	31	mg/L
Aug. 2014	001-A	BOD (concen.)	Daily Max.	41.5	42	mg/L

²¹ Chang Farms' 2014 Permit became effective in March 2014.

60-Day Notice Letter to Chang Farms

June 3, 2015

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Violation Reporting Date	Outfall	Parameter	Limit Type	Limit	Reported Value	Unit
Sept. 2014	001-A	TSS (concen)	Mo. Av.	15.5	18	mg/L
Sept. 2014	001-A	TSS (concen)	Daily Max.	23.2	30	mg/L
Nov. 2014	001-A	BOD (concen.)	Mo. Av.	26.6	44.5	mg/L
Nov. 2014	001-A	BOD (concen.)	Daily Max.	41.5	85	mg/L
Nov. 2014	001-A	TSS (concen)	Daily Max.	23.2	25	mg/L
Jan. 2015	001-A	pH	Maximum	8.3	8.43	SU
Jan. 2015	001-A	pH	Minimum	6.5	6.32	SU
Jan. 2015	001-A	TSS (concen)	Daily Max.	23.2	28	mg/L
Feb. 2015	001-A	pH	Maximum	8.3	8.43	SU
Mar. 2015	001-A	BOD (concen.)	Mo. Av.	26.6	62	mg/L
Mar. 2015	001-A	BOD (concen.)	Daily Max.	41.5	201	mg/L
Mar. 2015	001-A	TSS (concen)	Mo. Av.	15.5	16	mg/L
Mar. 2015	001-A	TSS (concen)	Daily Max.	23.2	34.75	mg/L
April 2015	001-A	TSS (concen)	Daily Max.	23.2	26.03	mg/L



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Exhibit 1

Env

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

DEVAL L. PATRICK
Governor

RICHARD K. SULLIVAN JR.
Secretary

KENNETH L. KIMMELL
Commissioner

December 19, 2013

Sidney Chang
Chang & Sons Enterprises, Inc.
P.O. Box 191, 415 River Road,
South Deerfield, MA 01373

Re: Whately-WWM
Chang Farms WWTP
Project #337-011
ACOP-WE-13-1N004

Dear Mr. Chang:

Enclosed please find a signed copy of the Administrative Consent Order (ACOP-WE-13-1N004), for the noncompliances at the Chang Farms wastewater treatment plant (WWTP).

The Administrative Consent Order was executed by Michael J. Gorski, Regional Director. Please pay particular attention to the landmark dates and specific performance requirements set forth in this document, and please refer to last page of the document for the effective date of this Order. Please be advised a press release may be issued related to this matter.

Should you have questions, please Paul Nietupski at 413-755-2218, or myself at (413) 755-2291.

Sincerely,

Brian D. Harrington
Deputy Regional Director
Bureau of Resource Protection

Enclosure: Signed ACOP-WE-13-1N004

cc: Christine LeBel/OGC/WERO
Steve Ellis -DEP/WERO



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

DEVAL L. PATRICK
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Sidney Chang
Chang & Sons Enterprises, Inc.
P.O. Box 191, 415 River Road,
South Deerfield, MA 01373

Re: Whately-WWM
Chang Farms WWTP
Project #337-011
ACOP-WE-13-1N004

Dear Mr. Chang:

Enclosed please find two copies of a draft Administrative Consent Order with Penalty, ACOP-WE-13-1N004, for your review and comment. Please review the ACOP for acceptance of the document and the landmark dates and return the documents to the Western Regional Office by close of business on December 20, 2013.

The ACOP attempts to integrate issues discussed between your representative and Department representatives during the October 17, 2013 Enforcement Conference.

If the conditions in the ACOP are acceptable to you, please have both copies signed and returned to the Department. The Department will then sign and date both copies, and return an original for your records. If there are any questions regarding this matter, please contact Paul Nietupski of my staff at 413-755-2218.

Sincerely,

Brian D. Harrington
Deputy Regional Director
Bureau of Resource Protection

PJN/pjn

W:\brp\wp\wpdoc\Enforcement Docs\ACOP-WE-13-1N004 (draft)\ACOP Chang Farms CoverLetter.doc

Enclosure: ACOP-WE-13-1N004 final draft

cc: WERO: file (2), BDH, Christine LeBel/OGC

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:)
)
)

Chang & Sons Enterprises, Inc.)
)

File No.: ACOP-WE-13-1N004
Program ID #: 337-011

**ADMINISTRATIVE CONSENT ORDER WITH PENALTY
AND
NOTICE OF NONCOMPLIANCE**

I. THE PARTIES

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Western Regional Office at 436 Dwight Street, Springfield, Massachusetts.
2. Chang & Son Enterprises, Inc. ("Respondent") is a Corporation with a mailing address of 415 River Road, South Deerfield, Massachusetts. Respondent's mailing address for purposes of this Consent Order is P.O. Box 191, 415 River Road, South Deerfield, Massachusetts 01373.

II. STATEMENT OF FACTS AND LAW

3. MassDEP is responsible for the implementation and enforcement of: M.G.L. c. 21, §§ 26-53, the Surface Water Discharge Permit Regulations at 314 CMR 3.00; the Ground Water Discharge Permit Regulations at 314 CMR 5.00; the Sewer System Extension and Connection Permit Regulations at 314 CMR 7.00; the Supplemental Requirements for Hazardous Waste Management Facilities at 314 CMR 8.00; the Water Quality Certification Regulations at 314 CMR 9.00; the Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges at 314 CMR 12.00; and the requirements for Certification of Operators of Wastewater Treatment Facilities at 257 CMR 2.00. MassDEP has authority under M.G.L. c. 21A, § 16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.
4. Respondent currently holds a surface water discharge permit, NPDES # MA0040207, issued jointly by the United States Environmental Protection Agency and MassDEP. Respondent operates a wastewater treatment facility

5. The following facts and allegations have led MassDEP to issue this Consent Order:
- A. On August 6, 2013, Department personnel conducted a Compliance Evaluation Inspection of Respondent's wastewater treatment facility located at 301 River Road, Whately, Massachusetts ("the Facility"). During the inspection the following was determined:
- i. The Facility does not have a current operations and maintenance ("O&M") Manual in compliance with 314 CMR 12.04(1). Subsequent to December 2009, magnetic flow meters were installed and utilized to record flows in replacement of the original ultra sonic flow meter. These changes were not reflected in the O&M Manual. The magnetic flow meters have not been calibrated since their installation.
 - ii. The Facility has not submitted a staffing plan within the last two years as required by 314 CMR 12.04(3).
 - iii. Only one of Respondent's personnel is a certified wastewater treatment plant operator. Section 257 CMR 2.11 requires that an Assistant Chief Operator be available during the absence of the Chief Operator.
 - iv. The Facility does not have a written preventative maintenance program per 314 CMR 12.04(9).
 - v. The Facility has not submitted a bi-annual alarm report per 314 CMR 12.05(12).
 - vi. Operators of the Facility were not aware of a written quality assurance/quality control ("QA/QC") program required by 314 CMR 12.06(2), although previously, in December 2009, the Facility's consultant submitted a QA/QC program.
- B. On October 24, 2013, Respondent submitted to the Department a staffing plan, documentation of a preventative maintenance program, a copy of an emergency certification application for one of Respondent's personnel, an update on modifications to the O&M Manual and a written QA/QC program.
6. On August 18, 2009, MassDEP issued a Notice of Noncompliance ("NON") to Respondent describing the above violations from a previous inspection, specifying the actions to be taken to return to compliance, and stating the deadlines for performing such actions.

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

8. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

9. MassDEP's authority to issue this Consent Order is conferred by the Statutes and Regulations cited in Part II of this Consent Order.

10. Respondent shall perform the following actions:

- A. As of the effective date of this Consent Order, Respondent shall ensure that a current Operations and Maintenance Manual in accordance with section 314 CMR 12.04(1) is available at the Facility.
- B. Within 10 days of the effective date of this Consent Order, Respondent shall submit a staffing plan in accordance with section 314 CMR 12.04(3) (which requires updates whenever there are staffing changes). The Staffing plan shall address the following:
 - a. Number of operational days per week
 - b. Number of operational hours per week
 - c. Number of shifts per day
 - d. Required personnel per shift
 - e. Saturday, Sunday and Holiday staff coverage
 - f. Emergency operating personnel
- C. As of the effective date of this Consent Order, Respondent shall ensure that a verifiable preventative maintenance program in accordance with section 314 CMR 12.04(9) is in place.
- D. Within 10 days of the effective date of this Consent Order, Respondent shall test all alarms at the Facility related to wastewater treatment and submit the results of the testing within 20 days of the effective date of this Order in compliance with section 314 CMR 12.05(12).
- E. As of the effective date of this Consent Order, Respondent shall implement a QA/QC program required by section 314 CMR 12.06(2).
- F. Within three (3) months of the effective date of this Consent Order, Respondent shall develop a schedule for calibration of the magnetic flow meters on a regular basis and shall submit a copy of the schedule to the Department. The interval between calibrations shall be based on recommendations of the manufacturer of the meter.
- G. Within three (3) months of the effective date of this Consent Order, Respondent shall submit either verification to the Department that the magnetic flow meters were installed in accordance with manufacturer's recommendations to provide accurate flow readings or provide a schedule to make any necessary modifications to the flow meter such that those modifications are completed within six (6) months of the effective date of this Consent Order.

- H. Within six (6) months of the effective date of this Consent Order, Respondent shall have on staff at the wastewater treatment plant a certified Assistant Chief Operator in addition to a certified Chief Operator in accordance with section 257 CMR 2.11.

11. Except as otherwise provided, all notices, submittals and other communications required by this Consent Order shall be directed to:

Brian D. Harrington
MassDEP
436 Dwight Street
Springfield, MA 01103

Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP.

12. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

13. For purposes of M.G.L. c. 21A, § 16 and 310 CMR 5.00, this Consent Order shall also serve as a Notice of Noncompliance for Respondent's noncompliance with the requirements cited in Part II above. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.

14. Respondent shall pay to the Commonwealth the sum of four thousand seven hundred thirty dollars (\$4,730.00) as a civil administrative penalty for the violations identified in Part II above, as follows:

A. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay to the Commonwealth three thousand dollars (\$3,000.00); and

B. MassDEP hereby agrees to suspend payment of the sum of one thousand seven hundred thirty dollars (\$1,730.00); provided, however, that if Respondent violates any provision of this Consent Order, or further violates any of the regulations cited in Part II above within three years of the effective date of this Consent Order, Respondent shall pay to the Commonwealth the remaining amount of one thousand seven hundred thirty dollars (\$1,730.00) within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. This paragraph shall not be construed or operate to bar, diminish, adjudicate, or in any way affect, any legal or equitable right of MassDEP to assess Respondent additional civil administrative penalties, or to seek any other relief, with respect to any future violation of any provision of this Consent Order or any law or regulation.

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15. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

16. This Consent Order may be modified only by written agreement of the parties hereto.

17. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

18. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding.

19. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

20. This Consent Order shall be binding upon Respondent and upon Respondent's successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent's directors, officers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

21. In addition to the penalty set forth in this Consent Order (including any suspended penalty), Respondent shall pay stipulated civil administrative penalties to the Commonwealth in accordance with the following schedule if Respondent violates any provision of this Consent Order:

For each day, or portion thereof, of each violation, Respondent shall pay stipulated civil administrative penalties in the following amounts:

<u>Period of Violation</u>	<u>Penalty per day</u>
1 st through 15 th days	\$100.00 per day
16 th through 30 th days	\$250.00 per day
31 st day and thereafter	\$500.00 per day

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent's obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondent's failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP's determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondent agrees to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

22. Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended and stipulated penalties, by certified check, cashier's check, or money order made payable to the Commonwealth of Massachusetts, or by electronic funds transfer. If payment is made by certified check, cashier's check, or money order, Respondent shall clearly print on the face of its payment Respondent's full name, the file number appearing on the first page of this Consent Order, and the Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 3982
Boston, Massachusetts 02241-3982

In the Matter of: Chang & Sons Enterprises, Inc.
ACOP -WE-13-1N004

Page 7

If payment is made by electronic funds transfer, Respondent must complete the attached form "Electronic Funds Transfer Request" and, within 10 days of the effective date of this Consent Order, submit it to Director, BAS Division of Fiscal Management via Facsimile at the MassDEP Revenue Fax Number 617-292-5824 or via mail to:

Department of Environmental Protection
Attn: Revenue Unit
1 Winter Street, 4th Floor
Boston, MA 02108

In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

23. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.

24. To the extent authorized by the current owner, Respondent agrees to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to the Facility for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.

25. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.

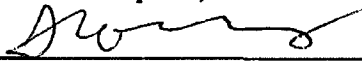
26. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.

In the Matter of: Chang & Sons Enterprises, Inc.
ACOP -WE-13-1N004

Page 8

26. This Consent Order shall become effective on the date that it is executed by MassDEP.

Consented To:
Chang & Sons Enterprises, Inc.

By: 

Tso-Cheng Chang
President
P.O. Box 191, 415 River Road, South Deerfield, MA 01373

Federal Employer Identification No.: 042763852

Date: 12/16/13

Issued By:
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: 

Michael J. Gorski
Regional Director
MassDEP
436 Dwight Street
Springfield, MA 01103

Date: 12/19/13

In the Matter of: Chang & Sons Enterprises, Inc.
ACOP -WE-13-1N004

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Form Letter to be used by Respondent to Request Electronic Funds Transfer.

Note: Respondent's request to transfer funds electronically must:

- 1.) Be submitted on Respondent's letterhead, and
- 2.) Be submitted either:
 - a) via facsimile to MassDEP Revenue Unit, at fax number 617-292-5824, or
 - b) via regular mail, as follows, (see letter on next page).

(Respondent Letterhead required)

Department of Environmental Protection
Attn: Revenue Unit
1 Winter Street, 4th Floor
Boston, MA 02108

RE: Electronic Funds Transfer Request
[Respondent fills in Enforcement Document Number, e.g. ACOP-CE-11-3A006]

Director, BAS Division of Fiscal Management:

In order to complete a wire transfer for payment of the penalty assessed under (list enforcement number here), (put Respondent name here) requests the following information:

DEP's legal address,
DEP's Federal Tax Identification Number,
The name and address of DEP's bank,
DEP's account name and number, and
The ABA/routing number for DEP's account.

Please mail or fax this information to:
Respondent's contact name:
Address:
Fax number:

Sincerely,
Signed:
Print name:
Title:
Work number:
Date:

